

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

REGINA R. TERRELL,
and ADA B. TERRELL, Plaintiffs

V.

DME EXPRESS LLC, Defendant

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CASE NO. 3:19-cv-141-TSL-RHW

NOTICE OF REMOVAL

TO: THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI, NORTHERN DIVISION

NOW INTO COURT, through undersigned counsel, comes the defendant, **DME Express LLC** (“DME” or “Defendant”), who files this Notice of Removal pursuant to 28 U.S.C. § 1332 and 1441, to hereby remove this matter from state court to the docket of this Honorable Court, respectfully stating as follows:

I. INTRODUCTION

1.

On October 5, 2018, an action was commenced in the Circuit Court of the First Judicial District of Hinds County, State of Mississippi, styled as *Regina R. Terrell and Ada B. Terrell* (hereinafter referred to as the “Plaintiffs”) v. *DME Express LLC*, bearing Cause No. 18-574-WLK (the “State Court Action”).

2.

Based upon undersigned counsel's investigation with the state court, it appears that the plaintiffs served their Complaint and the citation on DME on or around February 1, 2019. A

copy of the Complaint is attached hereto as **Exhibit “A”**, and copies of the documents served upon DME are attached hereto as **Exhibit “B”**.

3.

Without waiving any right to contest the sufficiency of process and service of process, DME files this Notice of Removal within the time delays for removal under 28 U.S.C. § 1446(b).

4.

As alleged, the plaintiffs are both adult residents of Lincoln County, Bogue Chitto, State of Mississippi. (*See* Ex. A, ¶ 1). Thus, the plaintiffs are considered citizens of the State of Mississippi for purposes of diversity jurisdiction.

5.

Defendant DME Express LLC is a limited liability company organized in the State of Louisiana, whose principal office and place of business is located at 5314 South Yale Avenue, Suite 900, Tulsa, Oklahoma 74135. DME is governed by members, Mark Borneleit and Andy Gremillion. At the time this action commenced, Mr. Borneleit is a resident and domiciliary of the State of Texas, and Mr. Gremillion is a resident and domiciliary of the State of Louisiana. Copies of DME’s incorporation filings are attached hereto *in globo* as **Exhibit “C”**. Therefore, DME is considered a citizen of the State of Louisiana and the State of Texas for purposes of diversity jurisdiction. *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077 (5th Cir. 2008).

6.

While, at all times herein, denying any liability for damages sought by the plaintiffs, DME sets forth certain allegations in the Complaint to support this Notice of Removal, to wit:

7.

The plaintiffs seek damages stemming from an accident that occurred on October 12, 2015, where the plaintiffs' vehicle was allegedly rear-ended by a vehicle owned and operated by DME ("Incident"). (*See* Ex. A, ¶¶ 3-4).

8.

As asserted in the Complaint, the plaintiffs contend that the Incident caused "extensive damage to plaintiffs' vehicle and result[ed] in bodily injuries to both plaintiffs." (*See* Ex. A, ¶ 5). As a result of the Incident, "Plaintiff's injuries required them to be transported by ambulance to a local hospital, where they were examined and treated. Both plaintiffs required prolonged medical care and treatment; they incurred medical expenses, and experienced pain and suffering." (*See* Ex. A, ¶ 5). Therefore, they seek to recover "past, present, future pain and suffering" and "past, present, future medical expenses." (*See* Ex. A, ¶ 7).

9.

Based on the plaintiffs' description of damages, and by their own averments in the Complaint, the potential judgment value against DME, exclusive of interest and costs, is in excess of the requisite jurisdictional amount of \$75,000.00.

II. REMOVAL IS PROPER UNDER THE LAW

10.

This Court has subject matter jurisdiction over this litigation pursuant to 28 U.S.C. §§ 1332 and 1441(b), as this action is between citizens of different states, and from the face of the Complaint, the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

11.

Removal is also timely under 28 U.S.C. § 1446(b) as this Notice of Removal is being filed within thirty (30) days of service of the Complaint and citation on DME. Furthermore, the State Court Action was commenced on October 5, 2018, and this removal is been filed within one (1) year after its commencement pursuant to 28 U.S.C. § 1446(c).

12.

Pursuant to 28 U.S.C. § 1446(d), simultaneously with the filing of this Notice of Removal, DME will promptly serve written notice thereof to all adverse parties, specifically the plaintiffs, and shall file a copy of the Notice of Removal with the Clerk of Court for the Circuit Court of the First Judicial District of Hinds County, State of Mississippi, to effect removal of this civil action to this Honorable Court as provided by law.

13.

As required by Local Rule 5(b), the defendants are filing a copy of the entire state court records with this Notice of Removal, which is filed *in globo* as **Exhibit “D”**. Upon information and belief, the filed pleadings are the only pleadings filed in the State Court Action to date. Undersigned counsel will supplement pursuant to the Local Rule should additional pleadings be located.

WHEREFORE, the defendant, DME Express LLC, prays that the aforesaid State Court Action be removed from the docket of the Circuit Court of the First Judicial District of Hinds County, State of Mississippi, to the docket of this Honorable Court for trial and determination as provided by law, and that this Court enter such Orders and issue such process as may be proper, including copies of records and proceedings of such civil action from the Circuit Court of the

First Judicial District of Hinds County, State of Mississippi, and thereupon proceed with the civil action as if it had been originally commenced in this Court.

Respectfully submitted, this the 21st day of February, 2019.

BY: /s/ *Olivia Y. Truong*
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DME Express LLC

CERTIFICATE OF SERVICE

I, the undersigned counsel of record for Defendant, do hereby certify that I have this day served the above and foregoing on all counsel of record via ECF document filing system and email.

This the 21st day of February, 2019.

/s/ *Olivia Y. Truong*
OLIVIA Y. TRUONG